

Form 13-31

(Rule 13-31)

COURT FILE NUMBER QBG No. 2911 of 2018

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE Regina

PLAINTIFF(S) JUNE LEDREW, ROBERT SCHMIDT and DEVON HACK

DEFENDANT(S) COUNCIL OF THE RURAL MUNICIPALITY OF MCKILLOP NO. 220

SUPPLEMENTAL AFFIDAVIT OF JUNE LEDREW

I, June LeDrew, of the Regina, Saskatchewan, MAKE OATH AND SAY (or AFFIRM):

1. I am an applicant in this matter. I am a property owner and voter in the Rural Municipality of McKillop No. 220 (the "RM"). I have owned property in the RM since 2004. I own residential and agricultural property in the RM.
2. I have personal knowledge of the facts and matters herein deposed to, except where stated to be on information and belief, and, where so state, I do verily believe the same to be true.
3. On October 11, 2018, counsel for the applicants sent a letter to the RM Council and legal counsel enclosing the Originating Application and materials filed in support of the application. In that letter, counsel for the applicants reiterated the position of the applicants that the RM had options available to it to quash its tax bylaws. A true copy of the letter is attached as **Exhibit "A"**.
4. On October 19, 2018, legal counsel to the RM provided an opinion to the RM's Council on the interpretation of section 286 of *The Municipalities Act*, a true copy of which is attached as **Exhibit "B"**. Contrary to the opinion provided on September 21, counsel for the RM found that section 286 **could** be relied upon to revisit the tax bylaws and reduce the rates imposed on the taxpayers.
5. On October 23, 2018, counsel for the RM sent a letter enclosing a signed Acknowledgment of Service of the Applicant's application and supporting materials. In the letter, the RM's counsel requested an adjournment until November 13, 2018. A true copy of the letter is attached as **Exhibit "C"**.

6. On October 24, 2018, counsel for the applicants responded agreeing to the request to adjourn the hearing until November 13. However, counsel emphasized that this would be the only adjournment that would be consented to due to the time sensitive nature of this particular application. A true copy of the letter is attached as **Exhibit "D"**.

7. On November 7, 2018, counsel for the Applicants sent an email to the RM's legal counsel asking whether the RM would be defending the application as the Applicants had not received any information as to the position taken by the RM on their application. The RM's legal counsel responded and requested a further adjournment until December 18, 2018. A true copy of the email exchange between counsel is attached as **Exhibit "E"**.

8. On October 24, 2018, a referendum was held on whether the RM should change the division boundaries to more fairly distribute voters within the RM. Nearly three quarters of the ratepayers voted in favour of changing the boundaries. Despite the overwhelming support in favour of changing the boundaries, the RM Council has not submitted the results of the referendum to the Minister of Government Relations as required by *The Municipalities Act*.

9. On November 5, 2018, Reeve Arndt gave an interview in the Last Mountain Times newspaper. When asked if the solution the Council had arrived at was a legal loophole, the Reeve replied, "Not really... just a VERY careful reading of the relevant legislation." The Reeve later admits that the tax bylaws were made in error. A true copy of the Last Mountain Times article is attached as **Exhibit "F"**.

SWORN (OR AFFIRMED) BEFORE ME at, Regina
Saskatchewan, this 9th day of
November, 2018.




A Commissioner for Oaths in Saskatchewan

My Commission expires: X

Or being a Solicitor





(signature)

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	MLT Aikins LLP
Name of lawyer in charge of file:	Deron A. Kuski, Q.C.
Address of legal firms:	1500 - 1874 Scarth Street Regina, Saskatchewan S4P 4E9
Telephone number:	(306) 347-8000
Fax number:	(306) 352-5250
E-mail address:	dkuski@mltaikins.com
File Number:	68948-1

MLT AIKINS

WESTERN CANADA'S LAW FIRM

MLT Aikins LLP
1500 - 1874 Scarth Street
Regina, Saskatchewan S4P 4E9
T: (306) 347-8000
F: (306) 352-5250

October 11, 2018

R.M. of McKillop No. 220 Council
103 Ashley Street
P.O. Box 220
Bulyea, SK S0G 0L0
Via Registered Mail

Merrilee Rasmussen, Q.C.
Rasmussen Rasmussen & Charowsky
3301 College Avenue
Regina, SK S4T 1W3
Via Email at Merrilee@rrc-law.ca

Deron A. Kuski, Q.C.
Direct Line: (306) 347-8404
E-mail: dkuski@mltaikins.com

Dear Council and Ms. Rasmussen:

Re: Application to Quash Tax Bylaws
File No.: 068948-0001

Please find enclosed for service upon you the following materials:

1. Originating Notice of Application for a hearing date of November 1, 2018;
2. Affidavit of Robert Schmidt;
3. Affidavit of Lawrence Garry Dixon;
4. Affidavit of June LeDrew;
5. Affidavit of Devon Hack; and
3. Draft Order.

Also enclosed is a form of Acknowledgement of Service which we would ask that immediately execute and fax back to our office.

As you will see from the materials served on you, we have set the Application to be heard on November 1st and we are confident in our ability to quash the impugned Bylaws on that date. Nevertheless, we remain hopeful that Council will do what is appropriate in these circumstances and engage our clients in a discussion about consenting to this Order and creating some tax bylaws that follow the correct procedure and that reduce the unnecessary tax burden that has been placed on a significant amount of ratepayers.


The Council does have options and we have created some that we would be happy to share. The notion that Council had no option when they budgeted for a \$800,000 surplus and have accounted for over \$500,000 of depreciation as part of an operating deficit is simply not correct and will be rejected by the Court.

We are confident that we will be able to secure an Order quashing these Bylaws if necessary, but we prefer to amicably assist in creating a more appropriate tax structure for 2018, rather than proceeding with the Application. Should we be forced to proceed with the Application costs will be incurred on both sides, and if we are successful, which we are confident we will be, we will be seeking to have Council completely indemnify our clients' for the legal costs they have incurred as a result of this proceeding - which we expect to be significant.

Yours truly,

MLT AIKINS LLP

Per:



Deron A. Kuski, Q.C.

DAK:cbo

Enclosures

cc Supervisor, Rural Municipality of McKillop

This is Exhibit "A" referred to in the
Affidavit of June Ledrew
sworn before me this 9th day of
November, 2018.

A Commissioner for Oaths for Saskatchewan.

My appointment expires on 21st day of November, 2018.
Being a solicitor

Rasmussen Rasmussen & Charowsky Legal Professional Corporation
barristers & solicitors

3301 College Avenue, Regina, SK S4T 1W3 tel: 306.525.8911 fax: 306.525.8912

October 19, 2018

Rural Municipality of McKillop No. 220

via email to


rm220administrator@rm220.ca

PO Box 220
Bulyea, SK
S0G 0L0

Attention: A/Administrator

Dear Ms Laich:

Re: Subsection 286(3) of *The Municipalities Act*

This is Exhibit "B" referred to in the
Affidavit of June Hedrew
sworn before me this 9th day of
November, 2018.

.....
A Commissioner for Oaths for Saskatchewan.
My appointment expires on X
Being a Solicitor

Introduction

Council has requested a formal legal opinion with respect to the interpretation to be provided to section 286 of *The Municipalities Act* (the MA), which reads as follows:

Tax rates

286(1) The mill rate factors set pursuant to section 285, when multiplied by the uniform rate described in clause 283(2)(a) or by the mill rates established pursuant to section 71 of this Act or pursuant to sections 8 and 9 of *The Municipal Tax Sharing (Potash) Act*, establish a tax rate for each class of property established pursuant to section 284.

(2) Subject to subsection (3), tax rates may not be amended after the municipality sends out tax notices to the taxpayers.

(3) If, after sending out tax notices, a municipality discovers an error or omission that relates to the tax rates, the municipality may revise the tax rates and send out revised tax notices.

In particular, Council's question is what constitutes "an error or omission that relates to the tax rates" that would allow the municipality to revise the tax rates and send out revised tax notices.

What are the "tax rates"?

The term "tax rate" is defined in s. 262 of the MA for the purposes of Part XI, which includes s. 286. The definition is as follows:

Merrilee Rasmussen, QC, BA, LLB, MA, LLM merrilee@rrc-law.ca
Jaime Carlson, BA, LLB jaime@rrc-law.ca
Colin Rasmussen, BSc, MSc, PhD, LLB colin@rrc-law.ca
Zena Charowsky, BA (Hons), LLB, LLM zena@rrc-law.ca
Ciara McIlwaine, BA (Hons), MA, JD ciara@rrc-law.ca
Chris Clarke, BHJ, JD chris@rrc-law.ca

Interpretation of Part

262 In this Part, “tax rate” means the rate of taxation determined for a class of property pursuant to section 286 or a rate mentioned in *The Education Property Tax Act*.

Subsection 286(1) describes the tax rate for a class of property established under s. 284 as constituting the mill rate factor for that class multiplied by the uniform rate set under clause 283(2)(a).¹

Section 284 authorizes the provincial government to make regulations establishing classes of assessment of property for the purposes of establishing mill rate factors. Those classes of assessment of property are set in subsection 42(2) of *The Municipalities Regulations* as Agricultural, Residential and Commercial, based on the assessment classification of the property. The taxable value of agricultural land is set by the Regulations at 45% or 55% of fair market value, depending on type. The taxable value of residential lands is 80% and the taxable value of commercial property is 100% of fair market value. Section 285 of the MA allows a council to set mill rate factors applicable to each of these classes.

My understanding is that the 2018 bylaw setting the mill rate factors and the resolution setting the uniform rate, together with the 2018 bylaws relating to base tax and minimum tax, were determined so as to produce the amount of revenue that Council understood it must budget for.

Contents of a Municipal Budget

Section 155 of the MA requires that a council adopt a budget prior to authorizing a tax levy. What must be contained in the budget is listed in subsection 156(1):

Contents of budget

156(1) The operating budget of a municipality is required to include the estimated amount of each of the following expenditures and transfers by the council for a financial year:

- (a) the amount needed to provide for the operations of the municipality;
- (b) the amount needed to pay all debt obligations with respect to borrowings by the municipality;
- (c) the amount needed to meet the sums that the municipality is required, by statute, to raise by levying taxes or other amounts that the municipality is required to pay;
- (d) the amount to be transferred to reserves;
- (e) the amount to be transferred to capital;
- (f) the amount of any operating deficit incurred in the previous financial year;
- (g) the amount needed to acquire, construct, remove or improve capital

¹ The references in s. 286 to mill rates set under s. 71 (with respect to organized hamlets) or under *The Municipal Tax Sharing (Potash) Act* (with respect to potash mine assessments) are not applicable here.

property.

(2) A council's operating budget is required to include the estimated amount of revenues from each of its sources of revenue and transfers.

(3) The estimated revenues and transfers described in subsection (2) must be at least sufficient to pay the estimated expenditures and transfers described in subsection (1). [*emphasis added*]

As clause 156(1)(f) states, the previous year's operating deficit must be included in the current year's budget, along with estimates of the amount required for current operations, debt obligations, transfers to reserves, etc.

In addition, the combined effect of subsections 156(2) and (3) is that the RM cannot budget for a deficit.

Subsection 283(2) of the MA requires a council to authorize a levy on all taxable assessments at a uniform rate that is sufficient to raise "the amount required to meet the estimated expenditures and transfers, having regard to estimated revenues from other sources, set out in the budget of the municipality". This reference to "expenditures and transfers" is a reference to the items that must be included in the budget pursuant to s. 156, including the previous year's operating deficit.

The RM's financial statements for 2017 show an operating deficit of \$488,013. A significant proportion of that deficit is amortization, not cash. Amortization is included in the financial statements because it reflects the true cost each year of the use of a capital asset. It allows the funds necessary to replace the asset at the end of its useful life to be set aside over time. If nothing is set aside, when the asset can no longer be used there will be no funds available to replace it.

My understanding is that Council adopted the mill rate factors and uniform rate based on its belief that it was required to include the whole of the 2017 operating deficit plus the whole of the anticipated amortization for 2018 in its 2018 budget. If this is not correct, the question then arises as to whether this misapprehension of the legislative requirements is an "error or omission" within the meaning of subsection 286(3).

What is an error or omission related to the tax rates?

I could find no judicial consideration of the phrase "error or omission" used in this context in *The Municipalities Act* or in *The Cities Act* or *The Northern Municipalities Act*, which contain similar provisions. There is no corresponding provision in the former *Rural Municipalities Act, 1989*, which was repealed when the MA came into force.

Subsection 286(3) of the MA requires that the error or omission must "relate to the tax rates". It is arguable that Council's misapprehension of the amount of revenue that had to be raised by the tax rates is an error or omission that resulted in Council's setting tax rates that were higher than necessary, and therefore this misapprehension is an error or omission that relates to the tax rates.

I note that the Courts will often apply a presumption in favour of the tax payer where there is reasonable uncertainty or factual ambiguity resulting from a lack of explicitness in the statute. This presumption, when considered in the context of the vagueness of ss. 286(3) and the significant tax increase that has resulted, could well lead a court to conclude that the budget issue constitutes an error or omission contemplated by ss. 286(3) that would allow the RM to correct the error and set new tax rates mill rate factors and a new uniform rate.

While the base tax and minimum tax are not “tax rates” within the meaning of section 286, the levels set by them are tied to the overall revenue to be raised by the municipality and that, too, will affect the tax rates. It may be arguable that this allows the RM to revise those rates as well when preparing revised tax notices.

Conclusion

In conclusion, it is my opinion that if it is correct that Council was not required to include all amortization from 2017 and 2018 in its 2018 budget, that could constitute an error or omission that would allow Council to revise the tax rates in order to produce revenues that do not include all amortization and to send out revised tax notices.

Section 286 does not explicitly set out the process the RM must follow to revise the tax rates. Section 5 of the MA states that where a power provided by the Act is expressed to be “by bylaw”, then Council must act by bylaw. However, where the power is not expressed to be by bylaw, as is the case with ss. 286(3), it can be exercised by passing either a bylaw or a resolution.

I would recommend that, because of the significance of the issues, Council act by bylaw in each case, including in relation to the matter of setting the uniform rate. I also recommend that each such bylaw contain a preamble to outline the authority under which the bylaw is enacted and the error or omission that Council is relying on to revise the tax rates under ss. 286(3).

I trust this responds to Council’s request. If there is anything further required, please don’t hesitate to contact me.

Sincerely,

Rasmussen Rasmussen & Charowsky
Legal Professional Corporation

per: 

Merrilee Rasmussen, Q.C.

Rasmussen Rasmussen & Charowsky Legal Professional Corporation
barristers & solicitors

3301 College Avenue, Regina, SK S4T 1W3 tel: 306.525.8911 fax: 306.525.8912

October 23, 2018

MLT Aikins LLP
1500-1874 Scarth Street
Regina, SK S4P 4E9

via fax to (306) 352-5250

Attention: Deron Kuski QC

Dear Sir:

Re: Ledrew et al v Council of the RM of McKillop No. 220
Your file: 068948-0001

Please find enclosed signed Acknowledgment of Service.

As you will be aware from the information contained in Mr. Schmidt's Supplementary Affidavit, Council is investigating all options available to it. In addition, there is an election occurring on October 24, 2018, and new members of council will not be sworn in until November 5, 2018. As you can see, we will not be able to respond to your application in Chambers on November 1, 2018.


I would therefore request your consent to an adjournment of the matter. I am available on November 13, 2018, but that is likely not enough time after the new council is in place. I am away for the next two weeks after that and am next available on December 6, 2018.

Sincerely,

Rasmussen Rasmussen & Charowsky
Legal Professional Corporation

per: 

Merrilee Rasmussen, Q.C.

This is Exhibit "C" referred to in the
Affidavit of June Ledrew
sworn before me this 9th day of
November, 2018.

.....
A Commissioner for Oaths for Saskatchewan.
My appointment expires on X
being a solicitor

Merrilee Rasmussen, QC, BA, LLB, MA, LLM merrilee@rrc-law.ca
Jaime Carlson, BA, LLB jaime@rrc-law.ca
Colin Rasmussen, BSc, MSc, PhD, LLB colin@rrc-law.ca
Zena Charowsky, BA (Hons), LLB, LLM zena@rrc-law.ca
Ciara McIlwaine, BA (Hons), MA, JD ciara@rrc-law.ca
Chris Clarke, BHJ, JD chris@rrc-law.ca

COURT FILE NUMBER Q.B.G. No 2911 of 2018

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE REGINA

APPLICANTS JUNE LEDREW, BOB SCHMIDT,
LAWRENCE GARRY DIXON and DEVON HACK

RESPONDENT COUNCIL OF THE RURAL MUNICIPALITY OF
MCKILLOP NO. 220

ACKNOWLEDGEMENT OF SERVICE

You are asked to fill out and sign this form without delay, and to mail it to:

MLT Aikins LLP
1500 - 1874 Scarth Street
Regina, SK S4P 4E9
Attention: Deron A. Kuski, Q.C.

or to return it by fax to (306) 352-5250.

If you do not return this signed and completed Acknowledgement of Service without delay, you may not receive notice of any further proceedings or any documents may be personally served on you and you will be required to pay the costs of service.

I ACKNOWLEDGE SERVICE on me of a copy of the Supplementary Affidavit of Robert Schmidt sworn October 19, 2018;



Signature

Oct 23/18
Date of Service

Name of Respondent: Council of the Rural Municipality of McKillop No. 220
Name of person signing this form: Merrilee Rasmussen, Q.C.
Address in Saskatchewan where court documents may be served: Rasmussen Rasmussen & Charowsky
3301 College Avenue
Regina, SK S4T 1W3
Telephone number: (306) 525-8911
Fax number (optional): (306) 525-8912
Email address (optional): *merrilee@rrc-twr.ca*

NOTICE:

- (1) YOU MUST INCLUDE AN ADDRESS IN SASKATCHEWAN WHERE DOCUMENTS MAY BE MAILED TO OR LEFT FOR YOU IF YOU WISH TO RECEIVE NOTICE OF SUBSEQUENT PROCEEDINGS IN THIS MATTER.
- (2) It is optional to include your fax number and email address. If you include a fax number or email address, documents may be served on you by fax or electronic transmission.
- (3) The address, fax number or e-mail address that you give on this form will be used to serve you with documents until you serve on the other party or parties, and file with the court, written notice of a new address for service.

This document was delivered by:

MLT Aikins LLP
1500 – 1874 Scarth Street
Regina, SK S4P 4E9

whose address for service is same as above.

Lawyer in charge of file: Deron A. Kuski, Q.C.

Telephone number: (306) 347-8000

Fax number: (306) 352-5250

File number: 68,948.0001

October 24, 2018

Merrilee Rasmussen, Q.C.
Rasmussen Rasmussen & Charowsky
3301 College Avenue
Regina, SK S4T 1W3

Dear Madam:

**Re: June Ledrew et al v Council of the Rural Municipality of McKillop No. 220
Q.B.G. No. 2911 of 2018, Judicial Centre of Regina**
File No.: 068948-0001

This is Exhibit "D" referred to in the
Affidavit of June Ledrew
sworn before me this 9th day of
November, 2018.


A Commissioner for Oaths for Saskatchewan.

My appointment expires on ~~X~~
Being a solicitor

We have received and thank you for your letter of October 23, 2018. In the circumstances, we are prepared to agree to one adjournment of our application to quash the bylaws. We will agree to adjourn the application to Tuesday, November 13th.

We wish to make it very clear that we will agree to no further adjournments as this matter is extremely urgent and time sensitive. We will file this letter with the Court and secure the consent adjournment to that date.

We understand that the rural municipality council has been considering several options for quite some time now, including reducing the taxes based on an error in the tax notices pursuant to Section 286(3) of *The Municipalities Act*. While you may be under the impression that such actions, if taken, will eliminate the need for our application to be heard and determined, we do not agree.

We have provided council with several opportunities to consent to the quashing of the bylaws so that the tax bylaw process could be carried out properly by, for example, passing the budget before they pass the tax bylaws as required by *The Municipalities Act*. Council has refused to cooperate and refused to consent to the quashing of these bylaws that are clearly illegal. We provide you this information so that council is not under the impression that they can proceed in some other fashion to rectify errors in the tax notices and satisfy our clients that the bylaws should then still survive. We have instructions to quash these bylaws regardless of what other steps or actions council may take.

Even in the scenario that the tax notices are rectified such that taxes are reduced to a level that is satisfactory to our clients, we will not withdraw the application without payment of solicitor and client costs to our client group. The actions that our group has taken are for the benefit of all rate

payers in the rural municipality and their application has obvious merit. In the scenario that our clients are satisfied with a tax reduction through a means other than quashing the bylaws, we will still insist on payment of our solicitor and client costs and will go to court to argue that on the hearing date of the application should that not be consented to. Depending at what point final agreement on the application takes place, those costs will amount to somewhere in the range of \$40,000 to \$50,000.

We will adjourn the application by consent to November 13th but we do not want any confusion about the fact that this application will proceed unless it is consented to and we will vigorously oppose any further adjournment requests.

Yours truly,

MLT AIKINS LLP

Per:



Deron A. Kuski, Q.C.

DAK:cbo

Via Telecopier

cc Local Registrar, Regina Court of Queen's Bench

From: Merrilee Rasmussen <merrilee@rrc-law.ca>
Date: November 7, 2018 at 4:54:54 PM CST
To: 'Deron Kuski' <DKuski@mltaikins.com>
Subject: RE: RM of McKillop


I have no instructions to consent.

Merrilee Rasmussen QC
BA (Hons) LLB MA LLM
Rasmussen Rasmussen & Charowsky
Legal Professional Corporation

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Regina, Saskatchewan
S4T 1W3
T: 306.525.8911
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C: 306.537.6607

Plaza Cagancha 1356/503
Montevideo, Uruguay
011 598 290 230 98

merrilee@rrc-law.ca

This is Exhibit " E " referred to in the
Affidavit of Jane LeCrew
sworn before me this 9th day of
November, 2018

.....
A Commissioner for Oaths for Saskatchewan.
My appointment expires on X
Being a solicitor

CONFIDENTIALITY NOTICE

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From: Deron Kuski <DKuski@mltaikins.com>
Sent: November-07-18 4:44 PM
To: Merrilee <merrilee@rrc-law.ca>
Subject: RE: RM of McKillop

Merrilee,

I must confess that I am unable to understand what this Council is doing right now. This application deals with the legality of the Bylaws and asks that the Court quash them. The application's merit is so apparent given the budget not having been passed when the Bylaws were approved that we should have had a Consent Order long ago. The only issue that we should be arguing about is the costs payable to our client group as they have taken on an issue of benefit to the entire RM and there is no reason (given that they were correct to do so) that the cost burden should not be borne by all ratepayers.

If the Council will consent to the application to quash then we would agree to adjourn the argument on costs. The Council can then go ahead with a budget and send out new tax notices (presumably after new bylaws are enacted) and we can settle on costs or have them decided by the Court. I do not know what the resistance is but if this is not agreeable then we must proceed Tuesday as the matter is too urgent to leave until December. I suggest that the Council budget \$50,000 for costs on this as this application would have been necessary if they would have been more agreeable in September when we first raised these issues that have now been accepted as having merit.

Do not forget that court is at 1:30 on Tuesday as it follows a long weekend. Let me know if we have to proceed or if we can negotiate a consent order.

Deron Kuski, Q.C.
Partner
P: +1 (306) 347-8404 | **E:** DKuski@mltaikins.com
F: +1 (306) 352-5250

From: Merrilee [<mailto:merrilee@rrc-law.ca>]
Sent: Wednesday, November 07, 2018 4:04 PM
To: Deron Kuski
Subject: RE: RM of McKillop

Thanks for your email Deron.

I am instructed to request a further adjournment.

As you are no doubt aware, Council has been pursuing this issue diligently since its Interim Administrator took office on August 28 and the Supervisor was appointed on October 1.

As is indicated in the Supplementary Affidavit of Robert Schmidt, Council requested a legal opinion with respect to the effect of ss. 286(3) of *The Municipalities Act* at its October 15, 2018 meeting. I provided

that opinion on October 19, 2018 and it was considered by Council at its first meeting following the recent election, on October 26, 2018.

Council passed resolution 426/18 on October 26/18, as follows:

“That the RM of McKillop NO. 220 has received a legal opinion pertaining to section 286(3) of *The Municipalities Act* and it indicated an error or omission has occurred and therefore, council revisit and revise the 2018 budget, mill rate and tax tools and send out revised tax notices to the ratepayers”.

In essence, the question of “error” as described in ss. 286(3) relates to the issue of whether or not the financial advice provided to the RM with respect to inclusion of depreciation was correct. If that advice was in error, then the tax rates can be revised as subsection 286(3) provides.

Council has held a number of meetings to receive information from its administration to enable it to work through this issue and to develop revised tax rates. Unfortunately, as is often the case, these things are “easier said than done”.

I am advised this afternoon that Council will meet on November 19, 2018 to finish the budget process and determine a mill rate and draft the necessary bylaws relating to tax tools. The meeting is delayed because the Interim Administrator is away from November 8 to the morning of November 19.

I will also be away, on a trip scheduled months ago, from November 16 to November 29. I expect to have internet access and will do my utmost to prepare the necessary documents while I am away, but the first date on which I will actually be physically present in Saskatchewan is the 29th, and, unfortunately, I am scheduled to call in to the Nunavut Court of Justice on that morning with respect to matters in court there. I also understand that the next week is an en banc and the week after that I am travelling to Iqaluit to attend court.

Thus the first date that I am available in Regina is December 18.

I know you said earlier that you would not consent to any further adjournment, but in fact there is no prejudice to your clients if an adjournment is granted. However, if you cannot consent please advise and I will provide the necessary request to the Court as required by the Practice Directive.

Merrilee Rasmussen, Q.C.
BA(Hons), LLB, MA, LLM

Member of the Law Societies of Saskatchewan and Nunavut

Rasmussen Rasmussen & Charowsky
Legal Professional Corporation

3301 College Avenue, Regina, SK S4T 1W3
t: 306.525.8911
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another person, or use it for any other purpose. Please delete this e-mail and any attachments and notify the sender by return e-mail, telephone, or fax.

From: Deron Kuski <DKuski@mltaikins.com>
Sent: Wednesday, November 7, 2018 3:10 PM
To: Merrilee <merrilee@rrc-law.ca>
Subject: RE: RM of McKillop

Merrilee,

I have not heard from you regarding our application set for Tuesday November 13.

Does your client intend to defend this application and file materials or will we be able to secure a consent Order and simply appear to argue about the appropriate quantum of costs? Please advise.

Deron Kuski, Q.C.
Partner
P: +1 (306) 347-8404 | **E:** DKuski@mltaikins.com
F: +1 (306) 352-5250

Tax relief for RM220

New knowledge allows budget re-do

With recent municipal elections out of the way, and officials able to talk about municipal business without it appearing to be an 'election conflict', I chatted with RM 220 McKillop Reeve Howard Arndt about the path forward out of the RM's current financial's woes.

LMT: Do you feel vindicated by these new developments?

REEVE ARNDT: From the time that the 2018 tax bylaw was passed, I committed to finding a way to mitigate the impact on the ratepayers of this Municipality. And I am now able to say we are moving forward to do just that. We are going to reduce the taxes for this year to a level which the ratepayers expected. And for those who have already paid their taxes at the higher rate, the RM will provide refunds for overpayments or the option of moving it to a credit for next year's taxes.

LMT: How is this able to happen, given the RM's reported 'dire financial straits' just a few months ago?

REEVE ARNDT: It has taken some time, but through the dedicated work of the administration, council, Vern

Palmer (the government appointed inspector), and legal council, we have found a solution. A couple of sentences found in the RM of McKillop Inspection Report, prepared by Carol Ingham, provided us the information needed.

LMT: Is this a 'loop hole' in the law?

REEVE ARNDT: Not really ...just a VERY careful reading of the relevant legislation.

LMT: How so?

REEVE ARNDT: Municipal governance must be done in accordance with the Acts and Regulations of the Province of Saskatchewan. The most important of those is the Municipalities Act. Specific to Taxation, Section: 286 (2) of the Act states: Subject to subsection (3), tax rates may not be amended after the municipality sends out tax notices to the taxpayers. As a result of this section of the Act, options for council to move forward are all most non-existent with one very important exception: Section 286 (3) of the Act further states: If, after sending out tax notices,



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This is Exhibit "F" referred to in the
Affidavit of Jane Ledraw
sworn before me this 9th day of
November, 2018.


A Commissioner for Oaths for Saskatchewan.

My appointment expires on 2
Being a solicitor

a municipality discovers an error or omission that relates to the tax rates, the municipality may revise the tax rates and send out revised tax notices.

LMT: So was there an 'error or omission' in the process of preparing the tax bylaw?

REEVE ARNDT: And the answer is yes. The error comes in two parts. Administration and council believed that they needed to replace the money withdrawn from a reserve account and that the depreciation allowance included in the budget had to be part of a balanced budget. Having to collect for these two items resulted in the need to collect an additional one million dollars. However, as a result of new work and research, we learned we can defer payments into the reserve fund and the depreciation allowance does not need to be included when calculating a balanced budget. With this new knowledge council passed a resolution on October 26 to move forward with a redo of the budget and tax bylaw.

Reeve Arndt stated to Last Mountain Times that he expects new Tax Notices will be in the hands of RM 220 McKillop ratepayers by the end of November. It is not yet known if the tax payment deadline will be revised as a result of these new developments.

-editor